

# **EXHIBIT 32**

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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SHORELINE AVIATION, INC.,  
Plaintiff,

-against-

Case No.  
2:20-cv02161  
JMA-SIL

CYNTHIA L. HERBST, SOUND AIRCRAFT  
FLIGHT ENTERPRISES, INC., RYAN A.  
PILLA, BLADE URBAN AIR MOBILITY,  
INC., a/k/a FLY BLADE, INC., MELISSA  
TOMKIEL, and ROBERT S. WIESENTHAL,

Defendants.

-----x  
March 30, 2022

10:20 a.m.

Virtual Zoom

DEPOSITION of CYNTHIA L. HERBST, a  
Defendant herein, taken by the Plaintiff,  
pursuant to Rule 30(B)(6) of the Federal Rules  
of Civil Procedure, and Notice, held at the  
above-mentioned time and place, before Susan  
Crane, a Notary Public of the State of New York.

C. Herbst

Q I don't want you to guess.

**A** I apologize.

Q I'm asking if you ever made that  
ent?

A I don't recall ever making that statement. I apologize, I don't recall.

Q            Were you acting on their behalf at  
the East Hampton Airport?

MR. SKIBELL: Objection;

calls for a legal conclusion.

A            Only in the capacity for which I  
worked with them.

Q      What does that mean?

A If I was checking in a flight that I had booked, then yes, I was doing my job of facilitating the charter, the flight.

Q            And in that capacity you were acting on their behalf?

A I would say so.

Q Talking about seaplane commuter flights, Shoreline maintains control over the flight operations, correct?

A That is correct.

Q Shoreline maintains control over

1 C. Herbst

2 communications with the passengers on the  
3 seaplane commuter flights, correct?

4                           A           Depends on what the communications  
5                            were.

6 Q When written communications went  
7 out to the passengers who flew on Shoreline's  
8 seaplane commuter flights, who decided what the  
9 communication was? Was it you or was it  
10 Shoreline?

11 | MR. SKIBELL: Objection.

12                   A            There's all kind of different  
13                   communications.  There could be a communication  
14                   for cancelling a flight due to weather that has  
15                   to be communicated to the passengers.  If that  
16                   was a flight that I had booked or a charter that  
17                   I had booked, I would be responsible to  
18                   communicate that to the passengers.

19 I would get that information from  
20 Shoreline's flight operations dispatch office.  
21 A different kind of communication, maybe a  
22 passenger briefing before boarding a flight or  
23 after boarding a flight, that would be a  
24 Shoreline communication to the passenger.

25 Q What other kind of communications

1 C. Herbst

2 went out to passengers?

3 A Are you speaking verbal, written  
4 communications?

5 Q Written communications.

6 A It could be e-mails to passengers  
7 with regard to booking reservations or  
8 cancelling reservations, which if it was the  
9 flight I was working, then it would be my  
10 responsibility. There was telephone  
11 communications that I would be responsible for  
12 if they are setting up information for, you  
13 know, season information, then it would be a  
14 collaboration depending on what the information  
15 we would have to determine was.

16 Q I'm just talking about written  
17 communication. I'm not talking about who was  
18 delivering them, I'm talking about who was  
19 determining what the substance of the  
20 communication is.

21 A If it is an e-mail with regards to  
22 booking a reservation or cancelling a  
23 reservation on a flight that I was responsible  
24 for, then it would be me.

25 Q I'm not asking you who sends it,

1 C. Herbst

2 I'm asking you who decides what the substance of  
3 the communications would be?

4                   A            I would be deciding in the  
5                   scenario that was talking about somebody  
6                   communicated via e-mail to book a reservation.  
7                   I or a customer service representative in my  
8                   employ would be responsible for the contents of  
9                   the communication.

10 Q Not Shoreline?

11                   A           If a client is booking a  
12                   reservation through e-mail?

13 Q If a written communication went  
14 out to passengers on a seaplane commuter flight.  
15 I'm not talking about who sent it, I'm talking  
16 about the substance of it. Shoreline maintains  
17 what the substance of that communication was,  
18 correct?

19 MR. SKIBELL: Objection;  
20 asked and answered. Form. You  
21 can answer again.

22 A Are you referring to a particular  
23 communication that I can refer to?

24 Q No, I'm talking about written  
25 communications generally. Shoreline determined

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C. Herbst

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what the substance of those communications were?

3

MR. SKIBELL: Objection.

4

Q If a communication was going out to seaplane commuter flight passengers, even if you sent the communication, Shoreline was the one to determine what the substance of the communication was, correct?

9

MR. SKIBELL: Objection;

10

11

asked and answered. Misstates her testimony. You can answer again.

12

13

A No, I don't believe so. There would be different scenarios in which Shoreline would need to tell me what the communication was.

16

17

Q Were there any scenarios where Shoreline did maintain control of the substance of the communications?

19

20

A If the substance of the communications had to do with cancelling a flight due to weather or any other reason, Shoreline would communicate that to me and I would communicate that to the passengers. Cancellations or anything that disrupts the flight operation at a particular time, cancelled

1 C. Herbst

2 or delayed, Shoreline would communicate that  
3 information to me and I would communicate it to  
4 the passengers.

5 Q Okay. Let's take that example.

6       What ultimately got communicated to the  
7       passengers in that instance that you just  
8       described, Shoreline determined what the  
9       communication was?

10                   A         If it had to do with the operation  
11                   of the flight, Shoreline would communicate that  
12                   information to me, yes.

13 Q Are there any other instances  
14 where there were written communications that  
15 went to passengers where Shoreline didn't have  
16 control over the communication and you had  
17 control?

18                   A            There were letters that went out  
19                   every year, they would have limited input on  
20                   those.

21 | 0 What letters?

22                   A        You know, the letters for let's  
23        say, the sale of the coupon books. Those  
24        communications I would --

1 C. Herbst

2 MR. SKIBELL: Let her

3 answer.

4 Q Go ahead.

5 A For the information that would go  
6 out if people wanted to prepurchase tickets, I  
7 would be responsible for those communications.  
8 I would refer to John Kelly if there was  
9 anything that he wanted to input, and we would  
10 work on it collaboratively. Shoreline didn't  
11 have control.

12 Q Written communications went out to  
13 passengers regarding the sale of coupon books,  
14 correct?

15 A Yes.

16 Q And Shoreline maintained control  
17 over those communications, correct?

18 MR. SKIBELL: Objection.

19 A No, that is not correct.

20 Q You had the control?

21 A Yes.

22 Q You didn't run things by Shoreline  
23 first before sending them out?

24 A Sure I would ask for input,  
25 absolutely. That is not control, that is input.

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2 did not necessarily tell me where they are  
3 coming from; if they saw an ad, I'm calling  
4 about the ad or I'm calling you about the  
5 flight.

6 Q As we sit here today, do you have  
7 any doubt as to whether there were some people  
8 who became passengers on seaplane commuter  
9 flights as a result of Shoreline advertising?

10 MR. SKIBELL: Objection.

11                   A           I believe there were people that  
12                   called as a result of the ads, yes.

13 Q If Shoreline ran the ads and flew  
14 on a Shoreline seaplane commuter flight after  
15 Shoreline directed them to call you, you would  
16 still consider that person your customer as  
17 opposed to Shoreline's customer?

18                   A           I would. Can I give you an  
19                   example of why?

20 Q Sure.

21                   A           I had many passengers, a handful  
22                   of passengers I can remember offhand that were  
23                   my clients for years and years, and I would book  
24                   them on charter seaplanes and what have you.  
25                   Those passengers came to me and said, I'm

1 C. Herbst

2 interested in buying a seaplane. Okay, here's  
3 John Kelly's number, talk to him about it.

9 Is that passenger considered my  
10 customer or is that passenger considered  
11 Shoreline's customer? In this world of aviation  
12 things happen. Whether a passenger calls me  
13 with regard to an advertisement placed by  
14 Shoreline, whether an advertisement placed by  
15 me, or whether they talked to somebody else at  
16 the airport or however they got the information,  
17 the point is Shoreline shared passengers with  
18 me, referred passengers to me, and I referred  
19 clients to Shoreline that ended up to be big  
20 clients for Shoreline.

21 One passenger not only bought a  
22 seaplane but bought a jet. This is the working  
23 relationship that we had. Those things  
24 happened.

25 O All passengers that booked with

1 C. Herbst

2 SAFE for seaplane commuter flights between  
3 Manhattan and East Hampton between 1994 and 2018  
4 flew with Shoreline, correct?

5 A Seaplanes, yes. They were the  
6 only operator I used for those flights.

7 Q You didn't have your own planes?

8 A I had my own planes but not  
9 seaplanes. May I also point out that in the  
10 early days Shoreline --

11 Q All right, go ahead.

12 A I just want to point out that in  
13 the early days they were the only ones that had  
14 seaplanes. They were the only seaplane  
15 operator, but they also had land planes that I  
16 booked. They didn't only have seaplanes.

17 MR. SKIBELL: Can we just  
18 take a few minutes for a bathroom  
19 break?

20 MR. KRIEGSMAN: Sure, you  
21 know, the longer we go today the  
22 less chance we will finish today.

23 MR. SKIBELL: Five minutes  
24 shouldn't matter. Maybe we can  
25 get to the docs.

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2 MR. KRIEGSMAN: When we  
3 finish the questions, we will get  
4 to the docs. We will be back on  
5 in five.

6 (Recess was taken)

7 MR. KRIEGSMAN: Back on the  
8 record?

9 Q Ms. Herbst, I'm going to ask you  
10 some questions about your divorce agreement with  
11 Mr. Tuma and how that impacted this case. I  
12 believe you testified earlier that your divorce  
13 was finalized in 2017; is that correct?

14 A That is correct.

15 Q Did the divorce agreement provide  
16 what was to happen with regard to those three  
17 entities; Sound, SAFE, and the auto group  
18 entity?

19 A What would happen to them?

20 Q Yes.

21 A I will state it the best that I  
22 can. Sound Aircraft Services was going to  
23 remain with Steven Tuma. I would have -- I  
24 would not be able to compete with him with  
25 regards to fueling aircraft, tying down aircraft

1 C. Herbst

2 Shoreline Aviation in 201?

3 | A      **Absolutely not.**

4 Q During the course of your

5 arrangement with Shoreline Aviation, did you  
6 take any action to harm them?

7           A        I did not, Mr. Kriegsman. I never  
8        booked another seaplane operator in my duration  
9        of working with Shoreline Aviation. Never once  
10      did I do that. I was super loyal. I cannot say  
11      that in reverse.

12 Q How about the \$65,000 in advance  
13 commissions that you were paid --

**14**                   **A**                   **\$65,000** --

15 MR. SKIBELL: Let him ask  
16 the question.

17 Q For the 2018 season was it fair  
18 for you to keep those commissions?

19 A Absolutely, yes.

20 Q How many of those passengers did  
21 you book on seaplane commuter flights?

22                   A           The commission was based on the  
23                   fact that I sold the tickets, not that I booked  
24                   them.  Passengers buy coupon books year after  
25                   year.  I didn't necessarily book them.  They